



"Let our Just Censure

Attend the True Event."

BY J. A. SELBY.

COLUMBIA, S. C., THURSDAY MORNING, AUGUST 4, 1870.

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## CODE OF PROCEDURE—Continued.

Sec. 27. Should the business before the Court of General Sessions, at any term, not be completed on the arrival of the day fixed by law for the holding of the Court of Common Pleas for said County, the Judge presiding may, in his discretion, adjourn said Court of Common Pleas until the said business of the Court of General Sessions shall have been concluded.

Sec. 28. The several Circuit Judges shall have power to hold special sessions within their respective circuits, at any time in their discretion, or at the discretion of the Chief Justice, of which the Judge presiding shall give such notice as the Chief Justice may direct, or as may, in his judgment, be necessary, should no directions be given. The clerk of such court shall, at least fifteen days before the commencement of such special session, cause the time and place for holding the same to be notified, for at least two weeks, successively, in one or more of the newspapers published nearest the place where the session is to be held. All processes, writs and recognizances of every kind, whether respecting juries, witnesses, bail or otherwise, which relate to the cases to be tried at the said special sessions, shall be considered as belonging to such sessions, in the same manner as if they had been issued or taken in reference thereto. All business depending for trial at any special sessions shall, at the close thereof, be considered as of course removed to the next stated term of the Court. Said special session shall be held in pursuance of an order which shall be transmitted to the Clerk of the Court, and by him entered on the records of the Court.

Sec. 29. Petit jurors summoned to attend the Court of General Sessions in any County, except the County of Charleston, shall also attend and serve as jurors for the Court of Common Pleas next ensuing in and for the said County.

Sec. 30. The Judge of the Circuit Court shall have power to direct any Circuit Court in his Circuit to be adjourned over to a future day, designated in a written order to the Clerk of said Court, whenever there is a dangerous and general disease at the place where said Court is usually held.

Sec. 31. The Judges elected and qualified by taking the oath prescribed in the thirtieth Section of the second Article of the Constitution, which oath, to the Judges under the first election, shall be administered by the Governor of the State of South Carolina, who is hereby empowered to administer the same, and to the Judges under any subsequent election by one of the Justices of the Supreme Court, shall forthwith enter upon their duties.

Sec. 32. The Circuit Courts herein established shall be the courts of record, and the books of record thereof shall at all times be subject to the inspection of any person interested therein.

Sec. 33. The clerk elected in each County under the provisions of Section twenty-seven of Article IV of the Constitution, shall be Clerk of the Courts of General Sessions and Common Pleas, and may appoint a deputy, who may perform the duties of clerk, for whose acts such clerk shall be responsible; and a record of whose appointment shall be made in the Clerk's office; and such appointment may be revoked, at the pleasure of the clerk; and in case no clerk exists, the Judge shall have authority to appoint a person, who shall perform the duties of clerk, and said deputy clerk, or the one appointed by the Judge, shall be required to give the usual bond before entering upon the duties of the office.

Sec. 34. All suits in Equity depending in the Courts of Chancery, and not finally disposed of, and the property and the records relating thereto, on the first day of January, A. D. 1869, shall be transferred to the Courts of Common Pleas in and for their respective Counties, and shall be entered upon the dockets of said Courts for the stated term thereof next ensuing, and thereupon shall be heard, tried and determined, with all rights respected and preserved, in the same manner as if originally brought there: *Provided*, That no cause shall be transferred to the dockets of the courts aforesaid, not cognizable therein under the Constitution: *Provided*, further, That all causes depending as aforesaid, and the property and records pertaining thereto, cognizable under the Constitution in the Courts of Probate, shall be transferred to said Courts.

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Sec. 36. Court of Record.

Sec. 37. Duties of Clerk.

Sec. 38. Jurisdiction of Judges.

Sec. 39. In relation to Guardians.

Sec. 40. Titles and partition of Real Estate.

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Sec. 70. Judge may keep order and punish contempt.

Sec. 71. Process of Court—how executed.

Sec. 72. Judge may commit lunatics, etc., to Lunatic Asylum.

Sec. 73. Laws of Provisional Government, how far adopted. Transfer of record.

Sec. 35. A Court of Probate is hereby established in each of the several Counties in the State, which shall hold a session on the first Monday of each month at or near the Court House, and continue thereafter so long as the business may require.

Sec. 36. The Court of Probate shall be a Court of Record, and have a seal, may appoint a clerk, and may remove him at pleasure, and on failure of the Court to appoint such clerk, the Judge of the Court may perform all the duties of clerk.

Sec. 37. The Clerk of the Court of Probate shall keep a true and fair record of each order, sentence and decree of the Court, and of all other things proper to be recorded; and on the legal fees being paid, shall give true and attested copies of the files and proceedings of the Court. All copies so attested shall be legal evidence in the Courts of this State.

Sec. 38. Every Judge of Probate, in his County, shall have jurisdiction in all matters testamentary, and of administration in business appertaining to minors and the allotment of dower, cases of idioey and lunacy, and persons non compos mentis.

Sec. 39. The Judge of Probate shall have jurisdiction in relation to the appointment and removal of guardians of minors, insane and idiotic persons, and persons non compos mentis, and in relation to the duties imposed by law on such guardians, and the management and disposition of the estates of their wards. He shall exercise original jurisdiction in relation to trustees appointed by will in cases prescribed by law.

Sec. 40. He may exercise jurisdiction of all petitions for partition of real estate where no dispute exists in relation to the title thereof; and when the title to such real estate is disputed, he shall refer the same to the Circuit Court for adjudication, unless the parties shall consent to his determination of the same. The probate of the will and the granting of administration of the estate of any person deceased shall belong to the Judge of Probate for the County in which such person was last an inhabitant; but if such person was not an inhabitant of this State, the same shall belong to the Judge of Probate in any County in which the greater part of his or her estate may be.

Sec. 41. All proceedings in relation to the settlement of the estate of any person deceased shall be had in the Probate Court of the County in which his will was proved or administration of estate was granted.

Sec. 42. All proceedings in relation to the property or estate of any person under guardianship shall be had in the Court of Probate of the County in which the guardian was appointed.

Sec. 43. No Judge of Probate shall act as such in the settlement of any estate wherein he is interested as heir or legatee, executor or administrator, or as guardian or trustee of any person; in every such case the Judge of Probate of any adjoining County shall have jurisdiction, and it shall be his duty, upon application, to attend at some term of the Court of Probate in which such case may be pending, which shall not interfere with the duties in his own County, and hear and determine such case.

Sec. 44. The Judge or Clerk of the Probate Court shall have power to administer all oaths necessary in the transaction of business before the Probate Court, and all oaths required by law to be administered to persons executing trust under the appointment of said Court.

Sec. 45. Probate Courts may issue all warrants and processes, in conformity to the rules of law, which may be necessary to compel the attendance of witnesses, or to carry into effect any order, sentence or decree of such Courts, or the powers granted them by law.

Sec. 46. If any person shall refuse or neglect to perform any order, sentence or decree of a Probate Court, such Court may issue a warrant, directed to any Sheriff or Constable in the State, requiring him to apprehend and imprison such person in the common jail of the County; and if there be no jail of the County, then in the jail of the adjoining County, until he shall perform such order, sentence or decree, or be delivered by due course of law.

Sec. 47. When a witness whose testimony is necessary to be used before any Probate Court shall reside out of this State, (or more than thirty miles from the place of holding Court,) or by reason of age or bodily infirmity shall be unable to attend in person, the Court may issue a commission to one or more competent persons to take the testimony of such witness; and depositions taken according to the provisions of the law for taking depositions to be used on the trial of civil causes may be used on the trial of any question before the Probate Court where such testimony may be proper.

Sec. 48. When any Probate Court shall have first taken cognizance of the settlement of the estate of a deceased person, such Court shall have jurisdiction of the disposition and settlement of all the estate of such deceased person to the exclusion of all other Probate Courts.

Sec. 49. The jurisdiction assumed by any Probate Court in any case, so far as it depends on the place of residence or the location of his estate, shall not be contested in any suit or proceeding whatever, except in an appeal from the Probate Court in the original case, or when the want of jurisdiction appears on the record.

Sec. 50. When, by law, a guardian is required to be appointed of a minor, who is interested as heir or legatee, or representative of such heir or legatee, in any estate which is in a course of settlement, such guardian shall be appointed by the Probate Court before which such estate is in course of settlement; but afterwards, if the minor shall reside in another County, and is of the age of fourteen years, he may choose and have a guardian appointed in the County where he shall reside; and in that case the powers of the first guardian shall cease. In all other cases guardians shall be appointed by the Probate Court of the County where the persons for whom the guardian shall be appointed shall reside.

Sec. 51. The Probate Court, by which a guardian shall be appointed, shall have jurisdiction of the estate of the ward, and shall be alone authorized to permit the sale of such estate, and settle such guardian's accounts.

Sec. 52. Except as provided in the first Section, the Probate Court in each County shall appoint such times and places for holding Courts as shall be judged most convenient for all persons interested, and shall give notice of such times and places in one or more newspapers circulating in the County.

Sec. 53. The Probate Court shall be deemed open at all times for the transaction of ordinary business which may be necessary, when previous notice is not required to be given to the persons interested.

Sec. 54. A Probate Court may be adjourned as occasion may require; and when the Judge is absent at the time for holding a Court the Clerk may adjourn it.

Sec. 55. The Circuit Court shall have appellate jurisdiction of all matters originally within the jurisdiction of the Probate Court.

Sec. 56. The Supreme Court shall have jurisdiction of all questions of law arising in the course of the proceedings of the Circuit Court, in probate matters, in the same manner as provided by law in other cases.

Sec. 57. Any person interested in any final order, sentence or decree of any Probate Court, and considering himself injured thereby, may appeal therefrom to the Circuit Court in the same County, at the stated session next after such appeal, and such appeal shall be granted by the Probate Court, if application be made and filed in the clerk's office within fifteen days from the date of the decision appealed from.

Sec. 58. In all cases of appeal from the proceedings of the Probate Court, before such appeal shall be allowed, the person appealing shall give a bond to the satisfaction of the Probate Court, with a condition that he shall prosecute such appeal to effect, and pay all intervening damages and costs occasioned by such appeal.

Sec. 59. In all cases of appeal the appellant shall file in the Probate Office his grounds of appeal, and cause a copy thereof to be served on the adverse party, at least twelve days before the time when the appeal is to be entered in the Circuit Court.

Sec. 60. The person appealing shall procure and file in the Circuit Court to which such appeal is granted a certified copy of the record of the proceedings appealed from, of the application and grounds for the appeal filed in the Probate Court, and of the allowance of the same, together with the proper evidence that notice has been given to the adverse party according to law.

Sec. 61. When an appeal, according to law, is allowed by the Probate Court, all proceedings in pursuance of the order, sentence or decree appealed from shall cease until the judgment of the Circuit or Supreme Court is had; but if the appellant, in writing, waives his appeal before the entry thereof, proceedings may be had in the Probate Court, as if no appeal had been taken.

Sec. 62. When such certified copy shall have been filed in the Circuit Court such court shall proceed to the trial and determination of the question according to the rules of law; and if there shall be any question of fact or title to land to be decided, issue may be joined thereon under the direction of the court, and a trial thereof had by jury.

Sec. 63. The Circuit Court or Supreme Court, as the case may be, may tax costs for the party who shall prevail; or when, in the opinion of the court, justice shall require it, the court may deny such costs, and may tax costs for either party; and if costs be taxed against an executor or administrator, the same shall be allowed to him in his administration account.

Sec. 64. If the person appealing from the proceedings of the Probate Court, as provided in this Act, shall neglect to enter his appeal, the Circuit Court to which such appeal shall be taken, on motion, and producing attested copies of such appeal by the adverse party, shall affirm the proceedings appealed from, and may allow costs against the appellant.

Sec. 65. The final decision and judgment in cases appealed, as hereinbefore provided, shall be certified to the Probate Court by the Circuit Court or Supreme Court, as the case may be, and the same proceedings shall be had in the Probate Court, as though such decision had been made in such Probate Court.

Sec. 66. No Judge of any Probate Court shall be admitted to have any voice in judging or determining any appeal from his decision, or be permitted to act as attorney or counsel thereon, or receive fees as counsel in any matter pending in the Probate Court of which he is Judge: *Provided*, it shall be lawful for Judges of Probate to practice law in other courts in such cases as are not cognizable in court of probate.

Sec. 67. All proceedings in the Court of Probate shall be commenced by petition to the Judge of Probate for the County to whom the jurisdiction of the subject matter belongs, briefly setting forth the facts or grounds of the application.

Sec. 68. The Supreme Court may, from time to time, make rules regulating the practice and conducting the business in the Courts of Probate, in all cases not expressly provided for by law.

Sec. 69. The County Commissioners of each County shall provide all books necessary for keeping the records, also, a seal and necessary office furniture. *Provided* said furniture shall not exceed in cost the sum of one hundred dollars.

Sec. 70. The Judge may keep order in Court, and punish any contempt of his authority in like manner as such contempt might be punished in the Circuit or Supreme Court.

Sec. 71. When costs are awarded, to be paid by one party to the other, in the Courts of Probate, said Courts may issue execution therefor, in like manner as is practiced in the Courts of common law; and when no form for a warrant or process is prescribed by statute or rules of Court, he shall frame one in conformity to the rules of law, and the usual course of proceedings in this State. Any Sheriff or Constable in the State shall execute the order or processes of said Court, in the same manner as the orders or processes of the Circuit or Supreme Courts.

Sec. 72. The Judge of the Probate Court may commit to the Lunatic Asylum any idiot, lunatic or person non compos mentis, who, in his opinion, is so furiously mad as to render it manifestly dangerous to the peace and safety of the community that he or she should be at large; and also in all such other cases provided by law. In all cases the Judge shall certify in what place the said person or persons resided at the time of the commitment, and such certificate shall be conclusive evidence of such residence.

Sec. 73. All laws and parts of laws of the late Provisional Government of South Carolina, relative to the powers, duties and course of procedure of the Courts of Ordinary and Equity, as far as the jurisdiction of said Courts is herein conferred on the Courts of Probate, not inconsistent with the Constitution and this Act, or supplied by it, are hereby adopted and declared to be of force, and applicable to the Courts of Probate.

## TITLE V.

OF THE COURTS OF TRIAL JUSTICE.  
Sec. 74. Jurisdiction.  
Sec. 75. Qualification of bail.  
Sec. 76. Justification of bail.

Sec. 77. Allowance of bail.  
Sec. 78. Property, how taken when concealed in building or inclosure.  
Sec. 79. Property, how kept.  
Sec. 80. Claim of property by third person.  
Sec. 81. No jurisdiction in certain cases.  
Sec. 82. Answer of title.  
Sec. 83. Undertaking.  
Sec. 84. Suit discontinued.  
Sec. 85. If undertaking not given.  
Sec. 86. The same.  
Sec. 87. New action.  
Sec. 88. Costs.  
Sec. 89. Answer of title as to one cause of action.  
Sec. 90. Docketing judgments.  
Sec. 91. Rules.  
Sec. 74. Trial Justices shall have civil jurisdiction in the following actions, and no others:

1. In actions arising on contracts for the recovery of money only, if the sum claimed does not exceed one hundred dollars.

2. An action for damages for injury to rights pertaining to the person, or the personal or real property, if the damages claimed do not exceed one hundred dollars, and in cases of bastardy.

3. An action for a penalty, fine or forfeiture, where the amount claimed or forfeited does not exceed one hundred dollars.

[CONTINUED IN OUR NEXT.]

## Removal.

SINCE the fire of Sunday morning last, we have removed our stock to Brice's old stand, corner Main and Blanding Streets, where we will keep constantly on hand a first-class stock of GROCERIES and FAMILY SUPPLIES generally. Will also purchase all kinds of country PRODUCE. My old customers and the public are invited to call.  
July 10 J. A. HENDRIX & BRO.

## BUY

## THE ARROW TIE.



THE "ARROW TIE" was invented and patented by Mr. J. J. McComb, while a resident of New Orleans, previous to the late war—and sales of considerable quantity were made here in 1861.

Since the war, it has been gradually growing in favor in every section where cotton is made.

The manufacture and sale of that TIE is the exercise on the part of McComb of an unimpeachable proprietary right.

For sale by all dealers in Iron Ties and country merchants generally, under full guarantee at the lowest market prices.  
ROBERT MURE & CO., General Agents, Charleston, S. C.  
Charles L. Bartlett, Columbia, S. C., General Traveling Agent for the Carolinas.  
July 19 3mo

## Pine-Bud Cordial.

Manufactured by

R. HARRY & CO., COLUMBIA, S. C.

THIS delicious CORDIAL is made from the young buds of the Pine, and its use we confidently recommend to those who suffer from Throat and Lung Diseases, as well as those who suffer from Rheumatism and Diseases of the Kidneys.

BLACKBERRY CORDIAL,

Manufactured by R. Harry & Co.

This CORDIAL is made from the fruit of the "Bitter, or High Bush Blackberry," and is very fine. The valuable properties of the Blackberry are well known.

## Mint Cordial,

Manufactured by R. Harry & Co.

This Cordial is made from the fresh plant. The use of Mint as a Stomachic and Anti-Spasmodic, is known to all.

We offer to the public the above Cordials. They are our own manufacture, and are made from the best materials. The spirit used is that from the grape; (we use no other;) the sugar is the finest refined, and the other ingredients are all fresh and pure. These Cordials are entirely free from drugs and the essential oils, so much used at the present day in the manufacture of Cordials, Bitters and Liqueurs. The Blackberry is slightly spiced; the others are without spice.

Independent of their medicinal qualities, these Cordials will be found grateful and pleasant as beverages or light stimulants. Cordials should not be used before the morning meal.

R. HARRY & CO.

## CLOTHING

### Must be Sold!!

WE have about \$10,000 in CLOTH-

ING, more than we can realize on

this Spring, and we are anxious to

get rid of some of it, and will sell

VERY CHEAP for that purpose.

Our stock is the largest, in our

line, that has ever been brought

to this city. Handsome Goods,

and bought right. Large line of

BOYS' AND CHILDREN'S STRAW

HATS AND CLOTHING. New

styles of MEN'S "VENTILATOR

HATS."

Best Fitting SHIRTS. It is now

generally admitted that we are

making to order THE FINEST

CUSTOM-MADE GARMENTS IN

THE STATE. Call and examine

for yourselves.

R. & W. C. SWAFFIELD.

## Flour! Flour!!

100 BBL'S. Choice New Family FLOUR, just received and for sale by J. & T. R. AGNEW.  
July 21

About the best warning to husbands who amuse themselves once in a while by whipping their wives, was given the other day out West by the brother of a lady whose husband was abusing her shamefully. The fact, is the brother took up a hoe and laid it down—quite accidentally, of course—on the husband's head. The head was softer than the hoe, and the consequence was that the hoe remained intact, while the head of the husband did not. There was a nice funeral in that region the next day. Will husbands whose wives have brothers take a hint?

There is one single fact which one may oppose to all the wit and argument of infidelity, namely: that no man ever repented being a Christian on his death-bed.

A Paris novel for summer reading is of such a diabolical character, that it makes one's blood run cold, and shivers creep up one's back.

A very large widow having perpetrated matrimony with a wee bit of a fellow, her friends all say she has wedded "the widow's mite."

One, certainly not a disciple of good old Isaac Walton, says "the fishing of the day is the evil thereof."

A histrionic individual, who has heard a good deal about the "theatre of war," suggests that the back seats must be very desirable.

There are two kinds of bowl-worm in Georgia. One of them destroys the cotton, the other the whiskey.

The Central Bank of Brooklyn has suspended. Cause, unfortunate real estate transactions by the President.

## Special Notices.

**CHOLERA!**—The following letter is from Mr. Woodward, of St. Louis, to J. N. Harris, Esq., of New London, Conn. Mr. W. is a gentleman of high respectability, and during the prevalence of the cholera in St. Louis, watched the result of the application of the Pain Killer for this disease, and his testimony can be relied upon with the utmost confidence:

DEAR SIR: You recollect when I saw you in January last, my expressing to you my most sanguine expectations that Davis' PAIN KILLER would have a tremendous sale in the West this season, and my anticipations have been more than realized, and the testimony of thousands who have used it has been that they would not be willing to go to bed at night without it in the house.

On the appearance of the cholera in this city, such was the confidence in the Pain Killer as a remedy, that many who purchased it remarked to me that they had no fears or dread of the cholera, as long as they had the Pain Killer by them, and hundreds took it daily as a preventative, for no person can have a derangement of the bowels or diarrhoea, if they use this medicine. This was the security and confidence of hundreds acquainted with it, and when their friends were attacked with the Cholera, they would administer the remedy in large quantities, and in every case when it has been taken in any of the first stages of this disease, it has proved successful.

I consider it an infallible remedy. I have not heard of any individual in any family who used the Pain Killer when attacked, but speedily recovered.

The clerk informed me that he administered it to persons when cold or in the cramps, and it gave immediate relief, but still it should be given quickly, for when the discharge of "rice water" has begun, the hope of life has fled. Should this disease make its appearance among you, as in all probability it will, be not alarmed; you and all others there have the remedy, and I am confident if the Pain Killer is used, not a single death by cholera will occur in your family. Respectfully yours, A. T. WOODWARD.

The Pain Killer is sold by all dealers in Family Medicines.

Aug 2 11mo

**W**